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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,312	01/24/2002	Daryl S. Meredith	TN-1488	9558
7590	01/25/2006			
Adan Ayala, Esq. Black & Decker Inc. 701 E. Joppa Road, TW-199 Towson, MD 21286			EXAMINER HAMILTON, ISAAC N	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/056,312

EXAMINER

ART UNIT

PAPER

20060112

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Commissioner for Patents

The reply brief filed 11/10/05 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal. Responsive to the Reply Brief pursuant to 37 CFR 41.14 filed on 11/10/05, a supplemental Examiner's Answer is set forth below:

On page 2 of 4 of the Reply Brief in the second full paragraph, the appellant remarks, "[i]n other words, the belt and pulley system are needed in all apparatus that have a backlash eliminator." This statement by the appellant errantly rephrases the Examiner's statement from the final rejection of, "the belt and pulley are required in the configuration of any apparatus that has the backlash eliminator because of the spatial arrangements and spatial constraints." The appellant's rephrasing of the Examiner's statement is incorrect because the appellant has severely twisted the Examiner's words by changing "the backlash eliminator" to --**a** backlash eliminator-- <affected change underlined and in bold type for emphasis>. This change is erroneous and misleading because it changes the scope of the Examiner's statement. "[T]he backlash eliminator" referred to in the Examiner's statement includes only the backlash eliminator that is disclosed in Tsune (5,974,927), hereafter Tsune '927, which is associated with a belt as disclosed in column 2, line 14. "[**A**] backlash eliminator" that is referred to in the appellant's statement includes all backlash eliminators in the public domain. Clearly, the Examiner recognizes that among all backlash eliminators in the public domain there are equivalent mechanisms to the belt and pulley system used in Tsune '927, i.e., a motor shaft having one or more intervening gears, however, Tsune '927 teaches the use of a belt. The Examiner was referring only to the backlash eliminator in Tsune '927 in the rejection.

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In addition, the appellant's misconstrued statement that "the belt and pulley system are needed in all apparatus that have a backlash eliminator," is never disproved. In fact, the Examiner's position is maintained due to Tsune (5,823,081), hereafter Tsune '081, which was the reference cited by appellant in order to provide evidence disproving the appellant's above statement, being silent as to which mechanism, i.e. belt, intervening gears, is being used to drive the second gear 74. The appellant's statement that "the motor [in Tsune '081] may have a motor shaft with one or more intervening gears that mesh with second gear 74" is purely speculative.

Moreover, by appellant's own admission that "the motor is spaced away from the backlash assembly" in the first full paragraph of page 3 of the Reply Brief, reinforces the suggestion in Tsune '927 that there is not enough room for the backlash eliminator and the motor to be adjacent one another, and that it is common to utilize an additional mechanism to connect the motor and backlash eliminator due to design constraints concerning space when there is a backlash eliminator present.

Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

For the above reasons, and the reasons provided in the Examiner's Answer mailed 09/22/05, it is believed that the rejections should be sustained.

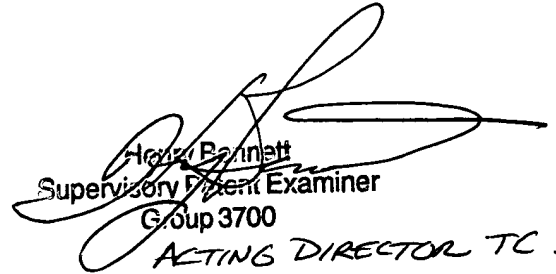
Respectfully submitted,


Isaac N. Hamilton


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A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:


Henry Bennett
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